

CORPORATE INTEGRITY AGREEMENT

**Between The
Office of Inspector General
Of The**

**Department of Health and Human Services
And**

Southcoast Hospitals Group, Inc.

This Corporate Integrity Agreement is entered into between Southcoast Hospitals Group, Inc. ("Southcoast") which is comprised of St. Luke's Hospital, Charlton Memorial Hospital and Tobey Hospital, and the Office of Inspector General ("OIG") of the Department of Health and Human Services ("HHS"). Pursuant to this Agreement, Southcoast agrees to undertake the compliance provisions outlined below.

I. PREAMBLE

Southcoast agrees to implement this Corporate Integrity Agreement (the "Agreement") so as to ensure, to the extent reasonably possible, that Southcoast and each of its Board of Trustees, officers, employees and contractors maintain the business integrity required of a participant in Medicare, Medicaid and other federal health care programs, as defined in 42 U.S.C. 1320a-7b(f), and that Southcoast is in compliance with all laws and regulations applicable to such programs and with the terms of this Agreement. Unless otherwise specified in this Agreement, the period of future integrity obligations assumed by Southcoast under this Agreement shall be three (3) years from the date of execution of this Agreement. The date of execution of this Agreement is the date the final signature is obtained.

Southcoast Health System, Inc., an entity related to Southcoast, hereby agrees that it will do nothing in its capacity as a related entity of Southcoast that will interfere with, or diminish, Southcoast's ability to discharge Southcoast's corporate integrity obligations under this Agreement. Accordingly, Southcoast Health System, Inc. will take all reasonable steps, in its capacity as a related entity of Southcoast, to promote compliance with the terms of this Agreement.

OIG acknowledges that, in or about November 1997, Southcoast disclosed to the United States Attorney's Office for the District of Massachusetts that it had submitted certain incorrect claims to the Medicare program, in connection with evaluation and management services rendered to established patients at its oncology clinic located in the Charlton Memorial Hospital facility.

This Agreement supersedes paragraph four (4) of the "Settlement Agreement and Release" dated April 11, 1997, which was entered into by St. Luke's Hospital.

II. LEGAL COMPLIANCE PROGRAM

Southcoast agrees to continue to implement and maintain its voluntary "Legal Compliance Program" and "Legal Compliance Program Policy Manual" which are attached to this Agreement, and incorporated by reference, as Attachment A and Attachment B, respectively. To the extent that any of the obligations required by this Agreement replicate provisions contained in the attached Legal Compliance Program or the Legal Compliance Program Policy Manual, those provisions are deemed acceptable for the purpose of Southcoast meeting its obligations under this Agreement. If any changes are made to the Legal Compliance Program or sections 1, 2, 3, 16, 17, 18, or 19 of the Legal Compliance Agreement Policy Manual, Southcoast agrees to report those changes to OIG within 30 days of the implementation of such changes.

III. CORPORATE INTEGRITY PROGRAM

Southcoast agrees to implement a Corporate Integrity Program (the "Program"), which shall include the provisions listed herein. Within one hundred eighty (180) days of the date of execution of this Agreement, Southcoast will provide OIG with an Interim Report demonstrating that Southcoast has complied with all of the Program's requirements contained in Sections III. A, C, D, E and F of this Agreement. The Interim Report shall also identify the Compliance Officer and the members of the Compliance Committee.

A. Corporate Compliance Committee and Corporate Compliance Officer

Within ninety (90) days of the date of execution of this Agreement, the Board of Trustees of Southcoast shall: (i) direct the creation of a Corporate Compliance Committee (the "Compliance Committee"); (ii) charge the Compliance Committee with the responsibility to establish and implement the Program; and (iii) appoint an individual to serve as the Compliance Officer ("CO").

Within ninety (90) days of the effective date of this Agreement, the members of the Compliance Committee shall be appointed by the President of Southcoast, and shall include the Compliance Officer, the Chief Financial Officer and any others that Southcoast deems appropriate.

The Compliance Officer shall chair the Compliance Committee and shall be responsible for the day-to-day activities engaged in by Southcoast to further the operations of the Program.

The Compliance Officer shall be responsible for submitting all reports referenced herein to OIG's Office of Counsel to the Inspector General ("OCIG") of the United States Department of Health and Human Services ("HHS"), in accordance with the terms of this Agreement.

B. Annual Audits

1. Southcoast Audit

Southcoast shall, on an annual basis, perform an audit to review its billing policies, procedures and practices regarding claims submitted to Part B of Medicare. The annual audit may be performed by an independent professional organization, such as an accounting, law or consulting firm with expertise in Medicare, Medicaid and other federal health care programs' billing policies, procedures and practices, or by employees of Southcoast with similar expertise. At a minimum, the audit work plans must show that the audits are designed to determine the accuracy and validity of claims submitted for reimbursement to Medicare, Medicaid and all other federal health care programs. The audits shall be aimed at ensuring that the federal health care programs are billed appropriately. The audits shall be conducted by selecting a statistically valid sample of claims that can be projected to the population of claims for the relevant period. After the audit is completed, an audit report will be prepared.

If any of these annual audits uncover billing policies, procedures and/or practices that result in material billing deficiencies, Southcoast shall notify the Medicare carrier or other payor within sixty (60) days of discovering the deficiency and provide the carrier with the following (i) the methodology as to how the overpayment was determined; (ii) any claim specific information used to determine the overpayment; (iii) a check for the overpayment, and (iv) a notice to the carrier or other payor that the repayment is being made in accordance with this Agreement. Southcoast shall take remedial steps within thirty (30) days (or such additional time as may be agreed to by the carrier or other payor) to correct the problem, including preventing the deficiency from recurring. For purposes of this Agreement, a "material billing deficiency" shall

mean anything that has a material adverse financial impact upon the Medicare and/or Medicaid programs, which may be the result of an isolated event or a series of occurrences, and which lacks conformity with Medicare and Medicaid statutes, regulations and written directives and reimbursement principles issued by the Health Care Financing Administration ("HCFA") and its agents.

Contemporaneous to Southcoast's notification to the Medicare carrier as provided above, Southcoast shall notify OCIG of: (i) its findings concerning the material billing deficiency; (ii) Southcoast's actions to correct such material billing deficiency; and (iii) any further steps Southcoast plans to take to address such material billing deficiency and prevent it from recurring.

While this reporting requirement focuses on occurrences having a "material" adverse financial impact, this provision does not excuse Southcoast's statutory obligation as a Medicare participant to bring any other billing deficiencies, however de minimis, to a payor's attention, make appropriate refunds and take any steps necessary to prevent the recurrence of such deficiency.

The obligations contained in this paragraph shall be in effect for three (3) years from the date of execution of this Agreement. The annual audit reports required by this paragraph shall be submitted to OIG on July 2, 1999, July 2, 2000 and July 2, 2001.

2. St. Luke's Hospital Audit

Southcoast shall contract with an independent review organization, such as an accounting or law firm, to review on an annual basis the billing policies and procedures for all patient services or supplies for which Southcoast's affiliate, St. Luke's Hospital, contracts with outside vendors and shall provide copies of those audits to OIG. The reviews shall be aimed at ensuring that Medicare, Medicaid and all other federal health care programs are billed appropriately for services that are rendered as claimed and that Southcoast's billing procedures comply with all federal statutes, regulations and program requirements.

Southcoast will annually provide OIG with a copy of all reports or findings of the independent review conducted at St. Luke's Hospital. With respect to billing policies and procedures for patient services or supplies for which St. Luke's Hospital contracts with outside

vendors, Southcoast will annually provide OIG with a report of the corrective actions taken as a result of any material deficiencies that were discovered by Southcoast or as a result of the independent review. This report on the corrective actions taken by Southcoast at St. Luke's Hospital shall include a certification by Southcoast's Compliance Officer that all material deficiencies found either pursuant to the independent review or through Southcoast's own internal procedures have been adequately addressed to ensure St. Luke's Hospital's compliance with the requirements of this section and this Agreement.

If any of these annual reviews uncover billing policies, procedures and/or practices that result in material billing deficiencies, Southcoast shall notify the Medicare carrier or other payor within sixty (60) days of discovering the deficiency and provide the carrier with the following (i) the methodology as to how the overpayment was determined; (ii) any claim specific information used to determine the overpayment; (iii) a check for the overpayment, and (iv) a notice to the carrier or other payor that the repayment is being made in accordance with this Agreement. Southcoast shall take remedial steps within thirty (30) days (or such additional time as may be agreed to by the carrier or other payor) to correct the problem, including preventing the deficiency from recurring. For purposes of this Agreement, a "material billing deficiency" shall mean anything that has a material adverse financial impact upon the Medicare and/or Medicaid programs, which may be the result of an isolated event or a series of occurrences, and which lacks conformity with Medicare and Medicaid statutes, regulations and written directives and reimbursement principles issued by the Health Care Financing Administration ("HCFA") and its agents.

Contemporaneous to Southcoast's notification to the Medicare carrier or other payor, as provided above, Southcoast shall notify OIG of: (i) its findings concerning the material billing deficiency; (ii) Southcoast's actions to correct such material billing deficiency, and (iii) any further steps Southcoast plans to take to address such material billing deficiency and prevent it from recurring.

The obligations contained in this paragraph shall be in effect for two (2) years from the date of execution of this Agreement. The independent annual reviews required by this paragraph shall be submitted to OIG on July 2, 1999 and July 2, 2000.

C. Corporate Integrity Policy

Southcoast shall develop and implement written policies regarding its commitment to accurate billings consistent with published Medicare and Medicaid statutes, regulations, program requirements and other written directives from HCFA or its agents. These written policies will be submitted to OIG along with the Interim Report.

These policies shall be adopted by Southcoast's Board of Trustees and distributed to all employees and independent contractors involved in submitting or preparing bills or claims on behalf of Southcoast to the Medicare, Medicaid or other federal health care programs. Southcoast shall post in a prominent place accessible to each employee a notice detailing its commitment to comply with all applicable Medicare, Medicaid and other federal health care programs' statutes, regulations, written directives and program requirements in the conduct of its business.

D. Information and Education

Southcoast shall develop and institute an information and education program designed to ensure that each officer, each Board of Trustees member and each employee who is involved directly or indirectly in the preparation or submission of claims for reimbursement to the Medicare, Medicaid and other federal health care programs is aware of all applicable statutes, regulations and written HCFA directives. The information and education program should also convey the standards of business conduct that each individual is expected to follow and the consequences both to the individual and Southcoast that will ensue from any violation of these requirements.

The information and education program shall provide for no less than three (3) hours of formal training on an annual basis in: (i) the Corporate Integrity Program; (ii) the submission of accurate bills for services rendered to Medicare, Medicaid and other federal health care program patients; (iii) the personal obligation of each individual involved in the billing process to ensure that such billings are accurate; (iv) applicable reimbursement rules and laws, and (v) the legal sanctions for improper billings and examples of improper billing practices. Information concerning the format, dates, and a copy of the materials provided shall be summarized in the Interim Report and the Annual Report. Individuals whose contact with the billing process is both indirect and tangential, such as secretarial staff, are not required to have three (3) hours of training, but must have at least one and one-half hours of training, as described in this paragraph, per year.

The above-described training requirements shall be included in the formal orientation for new officers, Board of Trustees members and employees covered by this section.

E. Confidential Disclosure Program

Southcoast shall establish a confidential disclosure program enabling employees to disclose any practices or billing procedures alleged by the employee to be inappropriate, to an identified individual not in that employee's direct chain of command. Southcoast shall, as part of this disclosure program, require the internal review of any disclosure that is sufficiently specific so that it: (i) permits a determination of the appropriateness of the practice alleged to be involved; and (ii) reasonably permits corrective action to be taken and ensure that proper follow-up is conducted. In an effort to address every disclosure, however, Southcoast shall, in good faith, make a preliminary inquiry for every disclosure instance to ensure that it has obtained all of the necessary information that is reasonably required to determine whether an internal review, in accordance with the language above, should be conducted. Southcoast agrees that it will not take any retaliatory or adverse actions against any employee who makes a confidential disclosure and that, to the extent possible, it will protect the anonymity of the person making the disclosure. This section does not preclude Southcoast from taking disciplinary action (up to and including termination) against an employee for actions or conduct unrelated to the making of the confidential disclosure.

Southcoast shall include in its Annual Report to OCIG a summary of communications relating to federal health care programs received from the Confidential Disclosure Program and the results of any investigations performed as a result of these disclosures. Southcoast agrees to maintain such reports in a manner agreeable to OCIG so that they will be readily available to OCIG for a minimum of four (4) years or one (1) year longer than the duration of this Agreement.

F. Dealing with Excluded or Convicted Persons or Entities

Within ninety (90) days of the date of the execution of this Agreement, Southcoast shall implement a written internal operating policy that Southcoast shall not knowingly employ or enter into a consultant agreement, directly or indirectly, with or without pay, an individual or entity that is listed by a federal agency as excluded, suspended or otherwise ineligible for participation in federal programs. In order to carry out the

policy, Southcoast shall make a reasonable inquiry into the status of any current or potential employee or consultant. Such a reasonable inquiry shall include, at a minimum, a review of the OIG's Cumulative Sanctions Report and the General Services Administration's ("GSA's") List of Parties Excluded from Federal Procurement and Non-Procurement Programs.

Among other places, these reports can be found in the "Internet" at www.dhhs.gov/progorg/oig and www.arnet.gov/epls, respectively.

It is understood that Southcoast's policy need not require Southcoast to terminate the employment of, or consultant agreement with, individuals or entities who become proposed for exclusion or suspension during their employment with Southcoast. Southcoast will, upon discovery of such event, remove such employees or consultants from responsibility for, or involvement with, Southcoast's Medicare, Medicaid and other federal health care programs' business operations until the resolution of such, proposed exclusion or suspension. If any employee or consultant of Southcoast is charged with a criminal offense relating to its Medicare, Medicaid or other federal health care program business, Southcoast will, upon discovery of such event, remove that employee or consultant immediately from responsibility for or involvement with Southcoast's Medicare, Medicaid or other federal health care program business affairs. If the employee or consultant is convicted or debarred, Southcoast's policy will require that the employee or consultant agreement be terminated. Southcoast shall notify OCIG of each such personnel action taken and the reasons therefor, in its Annual Report to OIG.

Southcoast shall not knowingly allow, or cause to be allowed, any person convicted in any local, state or federal court of any felony involving health care matters to hold the position of officer or Board of Trustees member of Southcoast, or any of its subsidiaries either through an employment agreement or an independent contract.

Should Southcoast discover that it has employed an individual or entered into a consultant agreement in contravention of this provision, Southcoast will have thirty (30) days to take the necessary steps to cure the problem, in accordance with this section,

G. Reporting on Investigations

Within ten (10) days of becoming aware of the existence of any investigation or legal proceeding conducted or brought by a governmental entity involving an allegation that Southcoast has committed a crime relating to billing to Medicare or any other federal program or has engaged

in fraudulent activities relating to billing to Medicare or any other federal program, Southcoast shall notify OCIG of such investigation or legal proceeding. The notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Within ten (10) days of the resolution of the investigation or legal proceeding, Southcoast shall notify OCIG, identifying the findings or results of the investigation or legal proceeding.

IV. OIG INSPECTION, AUDIT AND REVIEW RIGHTS

In addition to any other right OIG may have by statute, regulation, contract or pursuant to this Agreement, OIG or its duly authorized representative(s) may examine Southcoast's books, records, and other company documents and supporting materials for the purpose of verifying and evaluating: (i) Southcoast's compliance with the terms of this Agreement; and (ii) Southcoast's compliance with the requirements of the Medicare, Medicaid and other federal health care programs. The documentation described above shall be made available by Southcoast at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, OIG or its authorized representative(s) may interview any of Southcoast's employees who consent to be interviewed at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee and OIG. Southcoast agrees to assist OIG in contacting and arranging interviews with such employees upon OIG's request. Southcoast's employees may elect to be interviewed with or without a representative of Southcoast present.

V. REPORTS

The CO of Southcoast shall be responsible for the submission of all reports and notifications to OCIG as required by this Agreement.

A. Interim Report

Within one hundred eighty days (180) of the execution of this Agreement, Southcoast shall submit to OCIG the Interim Report as required by section III. of this Agreement. As part of this Interim Report, Southcoast will submit the names of the Compliance Officer and members of the Compliance Committee.

B. Annual Report

Southcoast shall make Annual Reports (each one of which is referred to throughout this Agreement as the "Annual Report") to OCIG describing the measures Southcoast has taken to implement the Corporate Integrity Program and ensure compliance with the terms of this Agreement. In accordance with the provisions above, the Annual Report shall include the following:

1. In the first Annual Report, copies of the document or documents that comprise Southcoast's Corporate Integrity Program established under section III. of this Agreement as adopted by Southcoast's Board of Trustees and implemented by the Corporate Compliance Committee. For subsequent years, Southcoast shall note in the Annual Report any amendments or revisions to the Program documents made during the year covered by the Annual Report.
2. A detailed description of the findings made during the annual audits conducted pursuant to section III. B. of this Agreement relating to the year covered by the Annual Report, a summary of the disclosure or notice documents made by Southcoast pursuant to this section, a description of the corrective actions taken and proof of a refund to the pertinent payor (where applicable).
3. A description and copies of the training programs implemented pursuant to section III. D. of this Agreement and a summary of the activities performed in furtherance of the training programs, including a schedule and topic outline of the training sessions.
4. A summary of communications received from the Confidential Disclosure Program established pursuant to section III. E. and the results of any investigations performed as a result of any disclosures.
5. A certification that Southcoast has complied with the requirement of section III. F. of this Agreement.
6. A summary and status of any ongoing investigation or legal proceeding conducted or brought by a governmental entity involving an allegation that Southcoast has committed a crime or has engaged in fraudulent activities. The statement shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding as required by section III. G. of this Agreement.

7. The names of Southcoast's officers, Board of Trustees members and Compliance Committee members.
8. A certification from Southcoast's Compliance Committee that it has reviewed the Annual Report and agrees with the statements made therein, and has briefed Southcoast's Board of Trustees regarding the Annual Report.

Where applicable, the report shall include a statement that no events identified in subparagraphs 1 through 6 of this section occurred. Each Annual Report shall be submitted to OCIG thirty (30) days after the end of the years ending December 31, 1999, 2000 and 2001. The obligation to submit the last Annual Report will continue despite the other obligations of this Corporate Integrity Agreement having terminated under section I. of this Agreement.

VI. NOTIFICATION AND SUBMISSION OF REPORTS

Unless otherwise stated, subsequent to the execution of this Agreement, all notifications and reports required under the terms of this Agreement shall be submitted, in writing, to the following:

If to OCIG:

U.S. Department of Health and Human Services
Office of Counsel to the Inspector General
Civil Recoveries Branch - Compliance Unit
330 Independence Avenue, SW
Cohen Building, Room 5527
Washington, D.C. 20201
Telephone: 202.619.2078
Fax: 202.205.0604

If to Southcoast:

Linda Bodenmann
Compliance Officer
Southcoast Hospitals Group, Inc.
101 Page Street
New Bedford, Massachusetts 02740
Telephone: 508.961.5016
Fax: 508.979.8115

VII. DOCUMENT AND RECORD RETENTION

Southcoast shall maintain for inspection, documents and records relating to (i) Medicare, Medicaid and other federal health care programs reimbursement and (ii) its obligations under the terms of this Agreement, for a period of four (4) years, or longer if otherwise required by law, following the execution of this Agreement.

VIII. STIPULATED PENALTIES

Southcoast's compliance with the terms and conditions of this Agreement shall constitute an element of Southcoast's present responsibility with regard to participation in Medicare, Medicaid and other federal health care programs.

Pursuant to section XVI. of this Agreement, any and all modifications to this Agreement (including changes to dates on which an obligation is due to be met) shall be requested in writing and agreed to by OIG in writing prior to the date on which the modification is expected to take effect. Absent such written modifications, Southcoast agrees to the following stipulated penalties.

- A. Southcoast shall pay a stipulated penalty of \$2,000 for each day it fails to comply with any of the following terms, which stipulated penalty shall begin to accrue one day after the date the obligation becomes due.
 - 1. The creation of a Corporate Compliance Committee and the appointment of Corporate Compliance Officer within ninety (90) days of the execution of this Agreement.
 - 2. Submission of the Interim Report within one hundred eighty (180) days of the execution of this Agreement.
 - 3. Submission of the Annual Report by the due date required in section V. of this Agreement.
 - 4. Establishment of a confidential disclosure program within ninety (90) days of the execution date of this Agreement.
- B. A stipulated penalty of \$2,000 for each day Southcoast fails to comply by having fully in force during the term of this Agreement any of the following, which stipulated penalty shall begin to accrue one day after the receipt of the OIG's notice of noncompliance or as otherwise indicated in OIG's notice of non-compliance letter in accordance with section IX. below.

1. Implementation and maintenance of the written Corporate Integrity Policy, as required by section III. C. of this Agreement.
2. Granting access to the information or documentation necessary to exercise OCIG's inspection, audit and review rights, as set forth in section IV. of this Agreement.
3. Implementation and maintenance of the information and education program, as required by section III. D. of this Agreement.
4. Notification to OCIG of the existence or conclusion of any investigation or legal proceeding, as required by section III. G. of this Agreement.

C. Southcoast shall pay a stipulated penalty of \$1,000 for each day it employs or contracts with an individual or entity, in violation of section III. F. of this Agreement, after that individual or entity has been listed by a federal agency as debarred, suspended or otherwise ineligible for federal health care program participation. This stipulated penalty shall not be applied if Southcoast can demonstrate that it made a reasonable inquiry, as described in section III. F. of this Agreement, into the current or potential employee's or consultant's status. This penalty shall begin to accrue upon Southcoast's receipt of OIG's notice of noncompliance or as otherwise indicated in OIG's notice in accordance with section IX. below.

D. Southcoast shall pay a stipulated penalty of \$500 per day for each violation of any other requirement of this Agreement which is not covered by the stipulated penalties in subsections A., B. and C. above, which stipulated penalty shall begin to accrue on the date of receipt of OIG's notice of noncompliance or as otherwise indicated in OIG's notice in accordance with section IX. below.

IX. PAYMENT OF STIPULATED PENALTIES

Upon finding that Southcoast has failed to comply with any of the above-enumerated obligations, OIG shall notify Southcoast by certified mail of: (i) Southcoast's failure to comply; and (ii) OIG's exercise of its contractual right to demand payment of the stipulated penalties payable under this Agreement (this notice of non-compliance letter is hereinafter referred to as the "Demand Letter"). The applicable stipulated penalties shall begin to accrue on the date specified in section VIII., which date shall be indicated in the Demand Letter.

Within thirty (30) days of the receipt of the Demand Letter, Southcoast shall do either of the following: (i) cure the breach to the OIG's satisfaction and pay any applicable stipulated penalties; or (ii) request a hearing before an HHS administrative law judge to dispute the OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth in section XI. of this Agreement. Failure to respond as required above shall constitute a material breach of this Agreement, as set forth in section X. of this Agreement.

Payment of the stipulated penalties shall be made by certified or cashier's check, payable to "Secretary of the Department of Health and Human Services," and submitted to OCIG at the address set forth in section VI. of this Agreement.

These provisions for payment of stipulated penalties shall not affect or otherwise set a standard for the OIG's determination that Southcoast has materially breached this Agreement, which decision shall be made at the OIG's discretion and governed by the provisions in section X. of this Agreement.

If OIG makes a determination to impose stipulated penalties in accordance with this provision, Southcoast shall have the right to dispute OIG's determination in accordance with the agreed upon provisions set forth in section XI. of this Agreement.

X. REMEDIES FOR MATERIAL BREACH OF THIS AGREEMENT

If Southcoast engages in conduct that OIG determines to be a material breach of this Agreement, OIG may seek exclusion of Southcoast from participation in the Medicare, Medicaid and any other federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). Upon making its determination, OIG shall notify Southcoast of the alleged material breach by certified mail and of its intent to exclude as a result thereof (this letter shall be referred to hereinafter as the "Intent to Exclude Letter"). Southcoast shall have thirty-five (35) days from the date of receipt of the letter to proceed as follows:

- (1) cure the alleged material breach; or
- (2) demonstrate to the OIG's satisfaction that: (a) Southcoast is in full compliance with this Agreement; or (b) the material breach cannot be cured within the thirty-five (35) day period, but that Southcoast has begun to take action to cure the material breach, that Southcoast will pursue such an action with due diligence, and that Southcoast will give the OIG a timetable for curing the material breach.

If at the conclusion of the thirty-five-day period (or other specific period as subsequently agreed by OIG and Southcoast), Southcoast fails to cure the material breach to OIG's satisfaction, subject to the dispute resolution provisions in section XI. of this Agreement, OIG may exclude Southcoast from participation in the Medicare, Medicaid and any other federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). If OIG elects to exclude on this basis, OIG shall notify Southcoast of the exclusion in an "Exclusion Letter." The exclusion shall take effect thirty (30) days after the date Southcoast receives the Exclusion Letter. The exclusion shall have national effect and will also apply to all other federal procurement and non procurement programs.

For purposes of this section, a "material breach" is defined as follows: (i) a failure to report a material billing deficiency, take corrective action and pay the appropriate refunds, as provided in section III. B. of this Agreement; (ii) repeated or flagrant violations of the obligations under this Agreement, including, but not limited to, the obligations addressed in section VIII. of this Agreement; or (iii) failure to respond to a Demand Letter in the manner required in section IX of this Agreement.

In connection with the OIG's determination to exclude Southcoast pursuant to this provision, Southcoast shall have the right to dispute the OIG's determination in accordance with the agreed upon provisions set forth in section XI. of this Agreement.

XI. DISPUTE RESOLUTION

Upon OIG's delivery to Southcoast of its Demand Letter or of its Exclusion Letter, and as an agreed upon contractual remedy for the resolution of disputes arising under the obligation of this Agreement, Southcoast shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. § 1005 as if they applied to the stipulated penalties or exclusion sought pursuant to this Agreement. Specifically, the OIG's determination to demand payment of stipulated penalties or to seek exclusion shall be subject to review by an HHS administrative law judge in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. The administrative law judge's decision, in turn, may be appealed to HHS's Departmental Appeals Board ("DAB") in a manner consistent with the provisions in 42 C. F. R. § 1005.21.

Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues to be decided in a proceeding for stipulated penalties under this section shall be the following: (i) whether Southcoast was in full and timely compliance with the obligations of this Agreement for which OIG demands payment; (ii) whether Southcoast failed to

cure, consistent with the provisions contained in sections X.1. and X.2 of this Agreement; and (iii) the period of noncompliance. Southcoast shall have the burden of proving that it was in full and timely compliance and the steps taken to effect the cure, if any. The OIG shall have the burden of proving Southcoast's failure to cure. For purposes of paying stipulated penalties under this Agreement, and if Southcoast chooses to seek review in lieu of curing the breach and paying the stipulated penalties, as set forth above, the administrative law judge's decision shall give rise to Southcoast's obligation to pay. Thus, payment will be due immediately after the issuance of the administrative law judge's decision. Southcoast's election of its contractual right to appeal to the DAB shall not excuse its obligation to make payment upon the issuance of the administrative law judge's decision.

Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues to be decided in a proceeding for exclusion based on a breach of this Agreement shall be the following: (i) whether Southcoast was in material breach of one or more of its obligations under this Agreement; (ii) whether such breach was continuing on the date of the Exclusion Letter; and (iii) whether, in situations where the material breach could not have been cured within thirty-five (35) days, Southcoast began to take action to cure the material breach with due diligence and gave OIG a timetable for curing the material breach. For purposes of the exclusion herein agreed to in the event of breach of this Agreement, the administrative law judge's decision shall be deemed to make the exclusion effective, at which time the OIG may proceed with its exclusion of Southcoast if the administrative law judge finds in favor of the OIG. The administrative law judge's decision may be appealed to the DAB in a manner consistent with the provisions in 42 C.F.R. § 1005.21. Upon the conclusion of any period of exclusion, Southcoast may apply for reinstatement in accordance with 42 C.F.R. §§ 1001.3001-3004.

All notices required under any of the aforementioned proceedings shall be given to Southcoast and OIG in accordance with section VI. of this Agreement.

XII. COSTS RELATED TO ADDITIONAL AUDITS

In addition to the obligations assumed by Southcoast under this Agreement and as described above, if OIG determines that it is necessary to conduct an independent audit or review to determine whether or the extent to which Southcoast is complying, if at all, with their obligations under this Agreement, Southcoast agrees to pay for the reasonable costs of any such reasonable audit or review by OIG or its duly authorized representative.

XIII. UNALLOWABLE COSTS

It is agreed that all costs (as defined in the Federal Acquisition Regulations ("FAR") 31.205-47) and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395 -1395ddd and 1396-1396v (1997), and the regulations promulgated thereunder) incurred by or on behalf of Southcoast in connection with (a) the matters covered by this Corporate Integrity Agreement (but not including costs relating to Southcoast's voluntary Legal Compliance Program undertaken prior to effective date of this Agreement and costs associated with changes to that Program, but only if such changes were not made because of a requirement contained in this Agreement); (b) the government's audits and investigations of the allegations which are the subject of this Agreement; (c) any of Southcoast's investigative, defense and collective actions with respect to matters specifically covered by this Agreement; and (d) the negotiation of this Agreement, shall be unallowable costs for government contract accounting purposes and for purposes of seeking reimbursement from either the Medicare, Medicaid or other federal health care programs. Southcoast shall account separately for these costs for government contract accounting purposes and for purposes of seeking reimbursement from the Medicare and other federal health care programs. Any sums owed by Southcoast to the United States for payments made to Southcoast by Medicare and/or Medicaid (federal share) for costs that are unallowable (as defined in this Paragraph) shall be paid by Southcoast to HHS at HHS' discretion.

XIV. ACQUISITION COMPLIANCE

In the event that Southcoast purchases or establishes new business units in which it has a controlling interest, after the effective date of this Agreement, Southcoast shall notify OIG of this fact within thirty (30) days of the date of purchase or establishment. Southcoast shall implement all applicable provisions of this Agreement including any training or educational requirements within one hundred twenty (120) days following such purchase or establishment, or by such other date agreed to by Southcoast and OIG. If fifty (50) percent or more of the assets or fifty (50) percent or more of the issued and outstanding shares of common stock of Southcoast are acquired by a third party, such third party shall assume the obligations contained in this Agreement.

XV. PRIVILEGES AND DISCLOSURES

Nothing in this Agreement shall constitute or be construed as a waiver by Southcoast of its attorney-client or other applicable privileges. Subject to HHS's Freedom of Information Act ("FOIA") procedures, set forth in 45 C.F.R. Part 5, the OIG shall make a reasonable effort to notify Southcoast prior to any release by OIG of information submitted by Southcoast pursuant to its obligations under this

Agreement and identified upon submission by Southcoast as trade secrets, commercial or financial information and privileged or confidential under the FOIA rules. Southcoast shall refrain from identifying any information as trade secrets, commercial or financial information and privileged or confidential that does not meet the criteria for exemption from disclosure under FOIA.

XVI. EFFECTIVE AND BINDING AGREEMENT

Consistent with the provisions in the settlement agreement pursuant to which this Agreement is entered, and into which this Agreement is incorporated, Southcoast and the OIG agrees as follows:

1. This Agreement shall be binding on the successors, assigns and transferees of Southcoast.
2. This Agreement shall become final and binding only upon signing by each respective party hereto.
3. Any modifications to this Agreement shall be made with the prior written consent of the parties to this Agreement.
4. The undersigned signatory for Southcoast represents and warrants that she is authorized to execute this Agreement. The undersigned OIG signatory represents that he is signing this Agreement in his official capacity and that he is authorized to execute this Agreement.

As Agreed By:

SOUTHCOAST HOSPITALS GROUP, INC.

Dated: 4/15/99

By:

Linda Bodenmann

Linda Bodenmann

Compliance Officer and Chief Financial Officer

**OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Date

4/9/59



Lewis Morris, Esquire
Assistant Inspector General
Office of Counsel to the Inspector
General
Office of Inspector General
U.S. Department of Health and Human
Services